

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

LOCALS 302 AND 612 OF THE  
INTERNATIONAL UNION OF  
OPERATING ENGINEERS  
CONSTRUCTION INDUSTRY HEALTH  
& SECURITY FUND et al,

Plaintiffs,

v.

GREYROCK DRILLING &  
PILEDIVING LLC,

Defendant.

CASE NO. 2:22-cv-00648-TL

ORDER GRANTING MOTION FOR  
DEFAULT JUDGMENT

This matter comes before the Court on Plaintiffs' Motion for Default Judgment. Dkt. No. 17. Having reviewed the Motion and all supporting materials, the Court GRANTS the Motion.

**I. BACKGROUND**

Plaintiffs are joint labor-management trust funds created pursuant to Section 302(c)(5) of the Labor Management Relations Act and are subject to the Employee Retirement Income Securities Act of 1974 ("ERISA"). Dkt. No. 1 ¶ 1.1 (complaint). Plaintiffs provide retirement,

1 health, and training benefits to their eligible members, retirees, and their beneficiaries. *Id.* They  
2 allege that Defendant Greyrock Drilling and Piledriving LLC entered “into the I.U.O.E. Local  
3 302 Master Labor Agreement of Western Washington (MLAWW) Compliance Agreement”  
4 (“Agreement”). *Id.* ¶¶ 1.2, 3.2. The Agreement required Greyrock to submit monthly reports and  
5 contributions to Plaintiffs on or before the 15th day of each month in which hours covered by the  
6 Agreement were worked. *Id.* ¶ 3.3. Greyrock agreed to pay liquidated damages and interest for  
7 failure to comply with these requirements. Dkt. No. 19 ¶ 7; Dkt. No. 19-2 (Revised Trust  
8 Agreement). And Greyrock agreed to pay all costs of collection, including administrative costs,  
9 attorney’s fees and costs, and service fees. Dkt. No. 19 ¶ 7; Dkt. No. 19-2. Specifically, Greyrock  
10 agreed to pay liquidated damages of 12% on any delinquent contributions owed each month,  
11 with a minimum charge of \$25.00 per month. Dkt. No. 19 ¶ 7; Dkt. No. 19-2. And Greyrock  
12 agreed to pay interest at a rate of 12% per annum upon each monthly contribution delinquency  
13 from the date the contributions become first due. Dkt. No. 19 ¶ 7; Dkt. No. 19-2.

14 Greyrock failed to make contributions to Plaintiffs for covered work performed by  
15 Greyrock’s employees from January 2020 to September 2022. *See* Dkt. No. 18 ¶¶ 5–6; Dkt. No.  
16 18-1. Plaintiffs performed an audit of the payroll records and determined the number of  
17 reportable hours and the amount of fringe benefit contributions due that had not been remitted.  
18 Dkt. No. 18 ¶¶ 4–5. Plaintiffs’ audit determined the following amounts were due: (1) \$90,603.74  
19 in unpaid contributions; (2) \$11,045.71 in liquidated damages; and (3) \$13,854.44 in accrued  
20 interest as of November 15, 2022. Dkt. No. 18 ¶¶ 6–7; Dkt. No. 18-1. Plaintiffs incurred  
21 \$1,358.00 in audit fees and costs. Dkt. No. 18 ¶¶ 6–7.

22 Plaintiffs filed suit alleging that Greyrock violated the terms of the Agreement and  
23 ERISA § 512, 29 U.S.C. § 1145. Dkt. No. 1 ¶¶ 3.1–3.12. After being properly served, Greyrock  
24 failed to appear, and Plaintiffs moved for and obtained an order of default. *See* Dkt. Nos. 8, 10,

11. With evidentiary support, Plaintiffs ask the Court to enter default judgment in their favor and award them: (1) \$90,603.74 in unpaid contributions; (2) \$11,045.71 in liquidated damages; (3) \$13,854.44 in accrued interest as of November 15, 2022; and (4) \$1,3580.00 in audit fees and costs. Dkt. No. 18 ¶¶ 6–7; Dkt. No. 18-1. Plaintiffs also seek \$5,661.75 in attorney’s fees and \$543.76 in legal costs incurred in litigating this action. Dkt. No. 20 ¶¶ 8–9. They also ask the Court to specify that the post-judgment interest rate shall be 12% per annum in accordance with the Agreement. *Id.* ¶ 11; Dkt. No. 19 ¶ 7; Dkt. No. 19-2.

## 8 II. LEGAL STANDARD

9 A court’s decision to enter a default judgment is discretionary. *Aldabe v. Aldabe*, 616  
10 F.2d 1089, 1092 (9th Cir. 1980). Default judgment is “ordinarily disfavored,” because courts  
11 prefer to decide “cases on their merits whenever reasonably possible.” *Eitel v. McCool*, 782 F.2d  
12 1470, 1472 (9th Cir. 1986). When considering whether to exercise discretion in entering default  
13 judgments, courts may consider a variety of factors, including:

14 (1) the possibility of prejudice to the plaintiff, (2) the merits of a  
15 plaintiff’s substantive claim, (3) the sufficiency of the complaint,  
16 (4) the sum of money at stake in the action; (5) the possibility of a  
17 dispute concerning material facts; (6) whether the default was due  
to excusable neglect, and (7) the strong policy underlying the  
Federal Rules of Civil Procedure.

18 *Id.* at 1471–72. Courts reviewing motions for default judgment must accept the allegations in the  
19 complaint as true, except facts related to the amount of damages. *Geddes v. United Fin. Grp.*,  
20 559 F.2d 557, 560 (9th Cir. 1977).

## 21 III. DISCUSSION

22 As an initial matter, the Court finds that it has jurisdiction over this action pursuant to  
23 29 U.S.C. § 1132(e)(1) and 28 U.S.C. § 1331. The Court also finds that venue is proper under  
24

1 29 U.S.C. § 1132(e)(2) and 28 U.S.C. § 1391(b) because Plaintiffs are administered in this  
2 District. *See* Dkt. No. 1 ¶ 2.3.

3       Considering the *Eitel* factors, the Court finds that entry of default judgment is proper.  
4 First, the Court finds that Plaintiffs and the covered employees would be prejudiced absent an  
5 order of default judgment for the amounts due to the Plaintiff trusts for various bargained-for  
6 benefits. Second, taking the allegations in Plaintiffs' complaint as true and considering the  
7 supporting materials, Plaintiffs have sufficiently pled meritorious claims for delinquent  
8 contributions. Third, there is no evidence to suggest the default was due to excusable neglect, as  
9 Greyrock was served with process and failed to defend this action altogether. Fourth, the Court  
10 finds no evidence that there are likely disputes of fact. The *Eitel* factors thus favor entry of  
11 default judgment, notwithstanding the strong policy under the Federal Rules of Civil Procedure  
12 that claims be resolved through contested litigation.

13       The Court finds that Plaintiffs have submitted sufficient evidence to confirm the  
14 following amounts are due under the Agreement: (1) \$90,603.74 in unpaid contributions;  
15 (2) \$11,045.71 in liquidated damages; (3) \$13,854.44 in accrued interest as of November 15,  
16 2022; and (4) \$1,3580.00 in audit fees and costs. Dkt. No. 18 ¶¶ 6–7; Dkt. No. 18-1. The Court  
17 also finds that post-judgment interest shall accrue at 12% per annum from the date of entry of  
18 judgment. Dkt. No. 19 ¶ 7; Dkt. No. 19-2. But because the prejudgment interest was calculated  
19 only through November 15, 2022, the Court requests that Plaintiffs submit a revised prejudgment  
20 interest calculation so that the final judgment entered reflects an accurate prejudgment interest  
21 calculation. Once the Court receives and reviews that calculation, it will direct entry of a separate  
22 judgment reflecting the revised amount of prejudgment interest.

23       Plaintiffs are also entitled to attorney's fees under the criteria outlined in *Kerr v. Screen*  
24 *Extras Guild, Inc.*:

(1) the time and labor required, (2) the novelty and difficulty of the questions involved, (3) the skill requisite to perform the legal service properly, (4) the preclusion of other employment by the attorney due to acceptance of the case, (5) the customary fee, (6) whether the fee is fixed or contingent, (7) time limitations imposed by the client or the circumstances, (8) the amount involved and the results obtained, (9) the experience, reputation, and ability of the attorneys, (10) the ‘undesirability’ of the case, (11) the nature and length of the professional relationship with the client, and (12) awards in similar cases.

526 F.2d 67, 70 (9th Cir. 1975), *abrogated on other grounds by City of Burlington v. Dague*, 505 U.S. 557 (1992). Plaintiffs have supported each of these factors in the declaration of counsel (*see* Dkt. No. 20), and the Court finds this evidence persuasive. Plaintiffs have provided a sufficiently precise accounting of their attorney’s fees and costs to justify the request of \$5,661.75 in attorneys’ fees and \$543.76 in legal costs. These appear reasonable in light of the experience and skill of counsel, the rates requested and hours expended, and the efforts and results achieved.

#### IV. CONCLUSION

The Court finds that Plaintiffs are entitled to entry of default judgment in their favor on the amounts requested and GRANTS the Motion (Dkt. No. 17). Given the passage of time since Plaintiffs moved for default judgment and its entry, the Court ORDERS Plaintiffs file an updated prejudgment interest calculation within **ten (10) days** of entry of this Order. The Court will then review the calculations and direct entry of judgment in the appropriate amounts as reflected in this Order and based on its review of any newly calculated prejudgment interest.

Dated this 22nd day of March 2023.



Tana Lin  
United States District Judge